

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2011

HOUSE BILL No. 2312

By Committee on Judiciary

2-11

1 AN ACT concerning regulated scrap metal; relating to licensure for scrap
2 metal dealers; unlawful acts; criminal penalties; amending K.S.A. 2010
3 Supp. 50-6,109 ~~and, 50-6,110~~, 50-6,111 and *section 87 of chapter 136*
4 *of the 2010 Session Laws of Kansas* and repealing the existing
5 sections.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 ~~New Section 1. (a) On or after January 1, 2012, no business shall~~
9 ~~purchase any regulated scrap metal without having first secured a license~~
10 ~~for each place of business as herein provided. In case such place of~~
11 ~~business is located within the corporate limits of a city, the application for~~
12 ~~license shall be made to the governing body of such city. In all other cases,~~
13 ~~the application for license shall be made to the board of county~~
14 ~~commissioners in the county in which such place of business is to be~~
15 ~~located.~~

16 ~~(b) A board of county commissioners shall not issue or renew a scrap~~
17 ~~metal dealer license without giving the clerk of the township where~~
18 ~~the place of business is to be located written notice of the filing of the~~
19 ~~application for licensure or renewal. The township board may, within 10~~
20 ~~days, file advisory recommendations as to the granting of such license or~~
21 ~~renewal and such advisory recommendations shall be considered by the~~
22 ~~board of county commissioners before such license is issued.~~

23 ~~(c) The governing body of any city and the board of county~~
24 ~~commissioners shall not issue or renew a scrap metal dealer license~~
25 ~~without giving the sheriff, chief of police or director of all law~~
26 ~~enforcement agencies in the county written notice of the filing of the~~
27 ~~application for licensure or renewal. Each law enforcement agency may,~~
28 ~~within 10 days, file advisory recommendations as to the granting or~~
29 ~~renewal of such license and such advisory recommendations shall be~~
30 ~~considered by the governing body of the city or board of county~~

1 commissioners before such license is issued;

2 (d) An application for a scrap metal dealer license shall be verified
3 and upon a form prepared by the attorney general and shall contain:

4 (1) The name and residence of the applicant;

5 (2) the length of time that the applicant has resided within the state of
6 Kansas and a list of all residences outside the state of Kansas during the
7 previous 10 years;

8 (3) the particular place of business for which a license is desired;

9 (4) the name of the owner of the premises upon which the place of
10 business is located; and

11 (5) a statement that the applicant has not within 10 years immediately
12 preceding the date of making application been convicted of theft as
13 defined in K.S.A. 21-3701, prior to its repeal, or section 87 of chapter 136
14 of the 2010 Session Laws of Kansas, theft of property lost, mislaid or
15 delivered by mistake as defined in K.S.A. 21-3703, prior to its repeal, or
16 section 88 of chapter 136 of the 2010 Session Laws of Kansas, theft of
17 services, as defined in K.S.A. 21-3704, prior to its repeal, criminal
18 deprivation of property as defined in K.S.A. 21-3705, prior to its repeal, or
19 section 89 of chapter 136 of the 2010 Session Laws of Kansas, or any
20 other crime involving possession of stolen property.

21 (e) Each application for a scrap metal dealer license to purchase
22 regulated scrap metal shall be accompanied by a fee of not less
23 than \$100 nor more than \$400, as prescribed by the board of county
24 commissioners or the governing body of the city, as the case may be;

25 (f) The board of county commissioners or the governing body of a
26 city shall issue a license upon application duly made as otherwise provided
27 for herein, to any scrap metal dealer engaged in business in such county or
28 city and qualified to receive such license, to purchase regulated scrap
29 metals.

30 (g) If an original license is granted and issued, the governing body of
31 the city or the board of county commissioners shall grant and issue
32 renewals thereof upon application of the license holder, if the license
33 holder is qualified to receive the same and the license has not been
34 revoked as provided by law. The annual license fee for such license, which
35 shall be in addition to the fee provided by subsection (c), shall be not less
36 than \$25 nor more than \$50.

37 (h) No license issued under this act shall be transferable.

38 **(i) Violation of subsection (a) is a class A nonperson misdemeanor.**
39 New Sec. 2. (a) After examination of an application for a scrap metal
40 dealer license, the governing body of the city or the board of county
41 commissioners shall, if they approve the same, issue a license to the
42 applicant.

43 (b) No scrap metal dealer license shall be issued to:

1 ~~(1) A person who is not a citizen of the United States.~~

2 ~~(2) (1) A person who is not **[under]** 18 or more years of age **[and**
3 **whose parents or legal guardians would be ineligible to receive a scrap**
4 **metal license for any reason].**~~

5 ~~(3) A person who is not of good character and reputation in the~~
6 ~~community in which the person resides.~~

7 ~~(4) (2) A person who, within 10 years immediately preceding the date~~
8 ~~of application approval, has plead **pled** guilty to, been convicted of,~~
9 ~~released from incarceration for or released from probation or parole for~~
10 ~~committing, attempting to commit, or conspiring to commit a violation of~~
11 ~~article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their~~
12 ~~repeal, or Sections 87 through 125 and subsection (a)(6) of section 223 of~~
13 ~~chapter 136 of the 2010 Session Laws of Kansas, perjury, K.S.A. 21-3805,~~
14 ~~prior to its repeal, or section 128 of chapter 136 of the 2010 Session Laws~~
15 ~~of Kansas, compounding a crime, K.S.A. 21-3807, prior to its repeal,~~
16 ~~obstructing legal process or official duty, K.S.A. 21-3808, prior to its~~
17 ~~repeal, falsely reporting a crime, K.S.A. 21-3818, prior to its repeal,~~
18 ~~interference with law enforcement, section 129 of chapter 136 of the 2010~~
19 ~~Session Laws of Kansas, interference with judicial process, section 130 of~~
20 ~~chapter 136 of the 2010 Session Laws of Kansas, or any crime involving~~
21 ~~moral turpitude.~~

22 ~~(5) (3) A person who, within the five years immediately preceding the~~
23 ~~date of application approval, has plead **pled** guilty to, been found guilty of,~~
24 ~~or entered a diversion agreement for violating the provisions of **section 1,**~~
25 ~~**and amendments thereto,** K.S.A. 50-6,109 et seq., and amendments~~
26 ~~thereto, the laws of another state comparable to such provisions or the laws~~
27 ~~of any county or city regulating the sale or purchase of regulated scrap~~
28 ~~metal three or more times.~~

29 ~~(6) (4) A person who within the three years immediately preceding~~
30 ~~the date of application held a scrap metal dealer license which was~~
31 ~~revoked, or managed a facility for a scrap metal dealer whose license was~~
32 ~~revoked, or was an employee whose conduct lead **led** to or contributed to~~
33 ~~such revocation.~~

34 ~~(7) (5) A person who makes a false statement on the license~~
35 ~~application or has made a false statement on a license application within~~
36 ~~the last three years.~~

37 ~~(8) (6) A partnership **or limited liability corporation [company],**~~
38 ~~unless all the members of the partnership **or limited liability corporation**~~
39 ~~**[company]** are otherwise qualified to obtain a license.~~

40 ~~(9) (7) A corporation, if any manager, officer or director thereof, or~~
41 ~~any stockholder owning in the aggregate more than 25% of the stock of~~
42 ~~such corporation, would be ineligible to receive a license hereunder for~~
43 ~~any reason.~~

1 ~~(10) (8) A person whose place of business is conducted by a manager~~
2 ~~or agent unless the manager or agent possesses all the qualifications of a~~
3 ~~licensee.~~

4 ~~(11) (9) A person whose spouse would be ineligible to receive a scrap~~
5 ~~metal dealer license for any reason.~~

6 ~~(12) (10) A person whose spouse has been convicted of a felony or~~
7 ~~other crime which would disqualify a person from licensure under this~~
8 ~~section and such crime was committed during the time that the spouse held~~
9 ~~a license under this act.~~

10 ~~(13) (11) Any person who does not own the premises for which a~~
11 ~~license is sought, unless the applicant has a written lease for at least ¼ of~~
12 ~~the period for which the license is to be issued.~~

13 ~~(14) (12) Any person for a business location not in compliance with~~
14 ~~the provisions of all zoning requirements, environment codes, or other~~
15 ~~applicable business requirements.~~

16 ~~(d) Scrap metal dealer licenses shall be issued either on an annual~~
17 ~~basis or for the calendar year as determined by the board of county~~
18 ~~commissioners or the governing body of the city.~~

19 ~~New Sec. 3. (a) The board of county commissioners or the governing~~
20 ~~body of any city, upon five days' notice to the persons holding a license,~~
21 ~~may revoke or suspend the license for any one of the following reasons:~~

22 ~~(1) The licensee has violated any of the provisions of K.S.A. 50-~~
23 ~~6.109 et seq., and amendments thereto, or any ordinance, resolution, or~~
24 ~~rules or regulations made by the board or the city, as the case may be;~~

25 ~~(2) the employment or continuation in employment of a person if the~~
26 ~~licensee knows such person has violated, within the 18 months prior to the~~
27 ~~notice of suspension or revocation action, any of the provisions of K.S.A.~~
28 ~~50-6.109 et seq., and amendments thereto, or the laws of another state~~
29 ~~comparable to such provisions, or any city or county ordinance, resolution,~~
30 ~~or regulation controlling scrap metal sale or purchase in Kansas or any~~
31 ~~other state; or~~

32 ~~(3) there has been a violation of any laws of the state of Kansas,~~
33 ~~county resolution, or city ordinance regulating scrap metal which occurred~~
34 ~~occurred on the premises or related to the conduct of the business.~~

35 ~~(b) The board of county commissioners or the governing body of any~~
36 ~~city, upon five days' notice to the persons holding a license, shall revoke or~~
37 ~~suspend the license for any one of the following reasons:~~

38 ~~(1) The licensee has fraudulently obtained the license by giving false~~
39 ~~information in the application therefore;~~

40 ~~(2) the licensee has become ineligible to obtain a license under this~~
41 ~~act;~~

42 ~~(3) the nonpayment of any license fees;~~

43 ~~(4) permitting any criminal activity in or upon the licensee's place of~~

1 business:

2 ~~(5) the employment or continuation in employment of a person in~~
3 ~~connection with the receiving or purchasing of regulated scrap metal if the~~
4 ~~licensee knows such person has, within the preceding five years, plead~~
5 ~~guilty to, been convicted of, released from incarceration for or released~~
6 ~~from probation or parole for committing, attempting to commit, or~~
7 ~~conspiring to commit a violation of **section 1, and amendments thereto,**~~
8 ~~article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their~~
9 ~~repeal, or sections 87 through 125 and subsection (a)(6) of section 223 of~~
10 ~~chapter 136 of the 2010 Session Laws of Kansas, perjury, K.S.A. 21-3805,~~
11 ~~prior to its repeal, or section 128 of chapter 136 of the 2010 Session Laws~~
12 ~~of Kansas, compounding a crime, K.S.A. 21-3807, prior to its repeal,~~
13 ~~obstructing legal process or official duty, K.S.A. 21-3808, prior to its~~
14 ~~repeal, falsely reporting a crime, K.S.A. 21-3818, prior to its repeal,~~
15 ~~interference with law enforcement, section 129 of chapter 136 of the 2010~~
16 ~~Session Laws of Kansas, interference with judicial process, section 130 of~~
17 ~~chapter 136 of the 2010 Session Laws of Kansas, a violation of K.S.A.~~
18 ~~2010 Supp. 21-36a03, 21-36a05, and amendments thereto, or any crime~~
19 ~~involving moral turpitude; or~~

20 ~~(e) Within 20 days after the order of the board **denying,** revoking or~~
21 ~~suspending any license, the licensee may appeal to the district court and~~
22 ~~the district court shall proceed to hear such appeal as though such court~~
23 ~~had original jurisdiction of the matter. Any appeal taken from an order~~
24 ~~revoking or suspending the license shall not suspend the order of~~
25 ~~revocation or suspension during the pendency of any such appeal.~~

26 *New Section 1. (a) On or after January 1, 2012, no business shall*
27 *purchase any regulated scrap metal without having first registered each*
28 *place of business as herein provided. In case such place of business is*
29 *located within the corporate limits of a city, the registration shall be*
30 *made to the governing body of such city. In all other cases, the*
31 *registration shall be made to the board of county commissioners in the*
32 *county in which such place of business is to be located.*

33 *(b) A board of county commissioners shall provide the clerk of the*
34 *township with written notice of the filing of a registration by a scrap*
35 *metal dealer within 10 days of registration or renewal.*

36 *(c) The governing body of any city and the board of county*
37 *commissioners shall provide the sheriff, chief of police or director of all*
38 *law enforcement agencies in the county written notice of the filing of*
39 *registration by a scrap metal dealer within 10 days of registration or*
40 *renewal.*

41 *(d) A registration for a scrap metal dealer shall be verified and*
42 *upon a form prepared by the attorney general and contain:*

43 *(1) The name and residence of the applicant;*

1 (2) *the length of time that the applicant has resided within the state*
2 *of Kansas and a list of all residences outside the state of Kansas during*
3 *the previous 10 years;*

4 (3) *the particular place of business for which a registration is*
5 *desired;*

6 (4) *the name of the owner of the premises upon which the place of*
7 *business is located; and*

8 (5) *the applicant shall disclose any prior convictions within 10*
9 *years immediately preceding the date of making the registration for*
10 *theft, as defined in K.S.A. 21-3701, prior to its repeal, or section 87 of*
11 *chapter 136 of the 2010 Session Laws of Kansas, theft of property lost,*
12 *misplaced or delivered by mistake, as defined in K.S.A. 21-3703, prior to its*
13 *repeal, or section 88 of chapter 136 of the 2010 Session Laws of Kansas,*
14 *theft of services, as defined in K.S.A. 21-3704, prior to its repeal,*
15 *criminal deprivation of property, as defined in K.S.A. 21-3705, prior to*
16 *its repeal, or section 89 of chapter 136 of the 2010 Session Laws of*
17 *Kansas, or any other crime involving possession of stolen property.*

18 (e) *Each registration for a scrap metal dealer to purchase regulated*
19 *scrap metal shall be accompanied by a fee of not less than \$100 nor*
20 *more than \$400, as prescribed by the board of county commissioners or*
21 *the governing body of the city, as the case may be.*

22 (f) *The board of county commissioners or the governing body of a*
23 *city shall accept a registration for a scrap metal dealer as otherwise*
24 *provided for herein, from any scrap metal dealer engaged in business in*
25 *such county or city and qualified to file such registration, to purchase*
26 *regulated scrap metals. Such registration shall be issued for a period of*
27 *10 years.*

28 (g) *If an original registration is accepted, the governing body of the*
29 *city or the board of county commissioners shall grant and issue renewals*
30 *thereof upon application of the registration holder, if the registration*
31 *holder is qualified to receive the same and the registration has not been*
32 *revoked as provided by law. The registration fee for such renewal,*
33 *which shall be in addition to the fee provided by subsection (e), shall be*
34 *not less than \$25 nor more than \$50.*

35 (h) *No registration issued under this act shall be transferrable.*

36 (i) *Violation of subsection (a) is a class A nonperson misdemeanor.*

37 (j) *This section shall not apply to a business licensed under the*
38 *provisions of K.S.A. 8-2404, and amendments thereto, unless such*
39 *business buys or recycles regulated scrap metal that are not motor*
40 *vehicle components.*

41 New Sec. 2. (a) *After examining the information contained in a*
42 *filing for a scrap metal dealer registration and determining the*
43 *registration meets the statutory requirements for such registration, the*

1 governing body of the city or the board of county commissioners shall
2 accept such filing and the scrap metal dealer shall be deemed to be
3 properly registered.

4 (b) No scrap metal registration shall be accepted for:

5 (1) A person who is under 18 years of age and whose parents or
6 legal guardians ~~would be ineligible for registration for any reason~~ [have
7 been convicted of a felony or other crime which would disqualify a
8 person from registration under this section and such crime was
9 committed during the time that such parents or legal guardians held a
10 registration under this act].

11 (2) A person who, within five years immediately preceding the date
12 of filing, has pled guilty to, been convicted of, released from
13 incarceration for or released from probation or parole for committing,
14 attempting to commit, or conspiring to commit a violation of article 37 of
15 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or
16 sections 87 through 125 and subsection (a)(6) of section 223 of chapter
17 136 of the 2010 Session Laws of Kansas, perjury, K.S.A. 21-3805, prior
18 to its repeal, or section 128 of chapter 136 of the 2010 Session Laws of
19 Kansas, compounding a crime, K.S.A. 21-3807, prior to its repeal,
20 obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal,
21 falsely reporting a crime, K.S.A. 21-3818, prior to its repeal,
22 interference with law enforcement, section 129 of chapter 136 of the
23 2010 Session Laws of Kansas, interference with judicial process, section
24 130 of chapter 136 of the 2010 Session Laws of Kansas, or any crime
25 involving moral turpitude.

26 (3) A person who, within the five years immediately preceding the
27 date of registration, has pled guilty to, been found guilty of, or entered a
28 diversion agreement for violating the provisions of section 1, and
29 amendments thereto, K.S.A. 50-6,109 et. seq., and amendments thereto,
30 the laws of another state comparable to such provisions or laws of any
31 county or city regulating the sale or purchase of regulated scrap metal
32 three or more times.

33 (4) A person who within the three years immediately preceding the
34 date of registration held a scrap metal dealer registration which was
35 revoked, or managed a facility for a scrap metal dealer whose
36 registration was revoked, or was an employee whose conduct led to or
37 contributed to the revocation of such registration.

38 (5) A person who makes a materially false statement on the
39 registration application or has made a materially false statement on a
40 registration or similar filing within the last three years.

41 (6) A partnership or limited liability company, unless all members
42 of the partnership or limited liability company are otherwise qualified to
43 file a registration.

1 (7) *A corporation, if any manager, officer or director thereof, or*
2 *any stockholder owning in the aggregate more than 25% of the stock of*
3 *such corporation, would be ineligible to receive a license hereunder for*
4 *any reason.*

5 (8) *A person whose place of business is conducted by a manager or*
6 *agent unless the manager or agent possesses all of the qualifications for*
7 *registration.*

8 ~~(9) *A person whose spouse would be ineligible to register for any*~~
9 ~~*reason, except this provision shall not apply to the spouse or a manager,*~~
10 ~~*officer or director of a publicly-traded company or its subsidiaries.*~~

11 ~~(10)~~(9) *A person whose spouse has been convicted of a felony or*
12 *other crime which would disqualify a person from registration under*
13 *this section and such crime was committed during the time that the*
14 *spouse held a registration under this act.*

15 *New Sec. 3. (a) The board of county commissioners or the*
16 *governing body of any city, upon five days notice to the persons holding*
17 *a registration, may suspend the scrap metal dealer's registration for up*
18 *to 30 days for any one of the following reasons:*

19 (1) *The registrant has been convicted of violating any of the*
20 *provisions of K.S.A. 50-6,109 et seq., and amendments thereto, or any*
21 *similar ordinance, resolution or rules or regulations made by the board*
22 *or the city, as the case may be;*

23 (2) *the employment or continuation in employment of a person if*
24 *the registered scrap metal dealer knows such person has, within the ~~18~~*
25 *[24] months prior to the notice of suspension or revocation action, been*
26 *convicted of violating any of the provisions of K.S.A. 50-6,109 et. seq.,*
27 *and amendments thereto, or the laws of another state comparable to*
28 *such provisions, or any city or county ordinance or resolution, or*
29 *regulation controlling scrap metal sale or purchase in Kansas or any*
30 *other state; or*

31 (3) *permitting any criminal activity under the Kansas criminal*
32 *code, or similar ordinance, resolution or rules or regulations made by*
33 *the board or city, as the case may be, in or upon the registrant's place of*
34 *business.*

35 (b) *The board of county commissioners or the governing body of*
36 *any city may revoke the registration of a scrap metal dealer who has had*
37 *its registration suspended three or more times within a 24-month period.*

38 (c) *The board of county commissioners or the governing body of*
39 *any city, upon five days' notice to the person holding the registration,*
40 *shall revoke or suspend the registration for any one of the following*
41 *reasons:*

42 (1) *The registrant has fraudulently registered by knowingly giving*
43 *materially false information on the registration form;*

1 (2) the registrant has become ineligible to obtain a registration
2 under this act;

3 (3) the nonpayment of any registration fees after receiving written
4 notice that such registration fees are more than 30 days past due;[or]

5 ~~(4) the employment or continued employment of a person in~~
6 ~~connection with the receiving or purchasing of regulated scrap metal if~~
7 ~~the registrant knows such person has, within the preceding five years,~~
8 ~~pled guilty to, been convicted of, released from incarceration for or~~
9 ~~released from probation or parole for committing, attempting to commit,~~
10 ~~or conspiring to commit a violation of section 1, and amendments~~
11 ~~thereto, article 37 of chapter 21 of the Kansas Statutes Annotated, prior~~
12 ~~to their repeal, or sections 87 through 125 and subsection (a)(6) of~~
13 ~~section 223 of chapter 136 of the 2010 Session Laws of Kansas, perjury,~~
14 ~~K.S.A. 21-3805, prior to its repeal, or section 128 of chapter 136 of the~~
15 ~~2010 Session Laws of Kansas, compounding a crime, K.S.A. 21-3807,~~
16 ~~prior to its repeal, obstructing legal process or official duty, K.S.A. 21-~~
17 ~~3808, prior to its repeal, falsely reporting a crime, K.S.A. 21-3818, prior~~
18 ~~to its repeal, interference with law enforcement, section 129 of chapter~~
19 ~~136 of the 2010 Session Laws of Kansas, interference with judicial~~
20 ~~process, section 130 of chapter 136 of the 2010 Session Laws of Kansas,~~
21 ~~a violation of K.S.A. 2010 Supp. 21-36a03, 21-36a05, and amendments~~
22 ~~thereto, or any crime involving moral turpitude; or~~

23 ~~(5)](4)]~~ within 20 days after the order of the board denying,
24 revoking or suspending any registration, the registrant may appeal to the
25 district court and the district court shall proceed to hear such appeal as
26 though the court had original jurisdiction of the matter. Upon request
27 by the registrant, the district court may enjoin the revocation or
28 suspension of a registration until final disposition of any action brought
29 under this act.

30 (d) Any action brought under subsections (a), (b) or (c) shall be
31 brought individually against a single registrant's site and not against
32 any other scrap metal sites or locations registered by the same
33 individual, company or business entity.

34 Sec. 4. Section 87 of chapter 136 of the 2010 Session Laws is hereby
35 amended to read as follows: Sec. 87. (a) Theft is any of the following acts
36 done with intent to permanently deprive the owner of the possession, use
37 or benefit of the owner's property or services:

38 (1) Obtaining or exerting unauthorized control over property or
39 services;

40 (2) obtaining control over property or services, by deception;

41 (3) obtaining control over property or services, by threat;

42 (4) obtaining control over stolen property or services knowing the
43 property or services to have been stolen by another; or

1 (5) knowingly dispensing motor fuel into a storage container or the
2 fuel tank of a motor vehicle at an establishment in which motor fuel is
3 offered for retail sale and leaving the premises of the establishment
4 without making payment for the motor fuel.

5 (b) *Except as provided in subsection (c)*, theft of:

6 (1) Property or services of the value of \$100,000 or more is a severity
7 level 5, nonperson felony;

8 (2) property or services of the value of at least \$25,000 but less than
9 \$100,000 is a severity level 7, nonperson felony;

10 (3) property or services of the value of at least \$1,000 but less than
11 \$25,000 is a severity level 9, nonperson felony;

12 (4) property or services of the value of less than \$1,000 is a class A
13 nonperson misdemeanor, except as provided in subsection (b)(5) or (b)(6);

14 (5) property regardless of the value from three separate mercantile
15 establishments within a period of 72 hours as part of the same act or
16 transaction or in two or more acts or transactions connected together or
17 constituting parts of a common scheme or course of conduct is a severity
18 level 9, nonperson felony; and

19 (6) property of the value of less than \$1,000 is a severity level 9,
20 nonperson felony if committed by a person who has been convicted of
21 theft two or more times.

22 ~~(e) Theft of property that is regulated scrap metal of the value of:~~

23 ~~(1) \$100,000 or more is a severity level 4, nonperson felony;~~

24 ~~(2) at least \$25,000 but less than \$100,000 is a severity level 6,~~
25 ~~nonperson felony;~~

26 ~~(3) at least \$1,000 but less than \$25,000 is a severity level 8,~~
27 ~~nonperson felony;~~

28 ~~(4) less than \$1,000 is a class A misdemeanor and the offender shall~~
29 ~~be fined not less than twice the value of the regulated scrap metal taken,~~
30 ~~except as provided in subsection (e)(5); and~~

31 ~~(5) of less than \$1,000 is a severity level 9, nonperson felony if~~
32 ~~committed by a person who has been convicted of theft two or more times.~~

33 ~~(d)~~ (c) As used in this section,:

34 (1) "Conviction" or "convicted" includes being convicted of a violation
35 of K.S.A. 21-3701, prior to its repeal, this section or a municipal ordinance
36 which prohibits the acts that this section prohibits;

37 (2) "regulated scrap metal" means the same as in K.S.A. 2010 Supp.
38 50-6,109, and amendments thereto; and

39 (3) "value" means the value of the property or, if the property is
40 **regulated scrap metal**, the cost to restore the site of the theft of property
41 **that is such regulated scrap metal to its condition at the time immediately**
42 **prior to the theft of property that is such regulated scrap metal occurred,**
43 **whichever is greater.**

1 Sec. 5. K.S.A. 2010 Supp. 50-6,109 is hereby amended to read as
2 follows: 50-6,109. As used in *sections 1 through 3, and amendments*
3 *thereto, and* K.S.A. ~~2009~~2010 Supp. 50-6,109 through 50-6,112, and
4 amendments thereto:

5 (a) "Scrap metal dealer" means any person that operates a business
6 out of a fixed location, and that is also either:

7 (1) Engaged in the business of buying and dealing in regulated scrap
8 metal;

9 (2) purchasing, gathering, collecting, soliciting or procuring regulated
10 scrap metal; or

11 (3) operating, carrying on, conducting or maintaining a regulated
12 scrap metal yard or place where regulated scrap metal is gathered together
13 and stored or kept for shipment, sale or transfer.

14 (b) "Regulated scrap metal yard" means any yard, plot, space,
15 enclosure, building or any other place where regulated scrap metal is
16 collected, gathered together and stored or kept for shipment, sale or
17 transfer.

18 (c) "Regulated scrap metal" shall mean wire, cable, bars, ingots, wire
19 scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts,
20 pipes or connectors made from aluminum; catalytic converters containing
21 platinum, palladium or rhodium; and copper, titanium, tungsten, stainless
22 steel and nickel in any form; for which the purchase price described in
23 K.S.A. 2010 Supp. 50-6,110 and 50-6,111, and amendments thereto, was
24 primarily based on the content therein of aluminum, copper, titanium,
25 tungsten, nickel, platinum, palladium, stainless steel or rhodium; any item
26 composed in whole or in part of any nonferrous metal other than an item
27 composed of tin, that is purchased or otherwise acquired for the purpose of
28 recycling or storage for later recycling. Aluminum shall not include food
29 or beverage containers.

30 (d) "Bales of regulated metal" means regulated scrap metal property
31 processed with professional recycling equipment by compression, shearing
32 or shredding, to a form in which it may be sold by a scrap metal dealer
33 consistent with industry standards.

34 (e) "Ferrous metal" means a metal that contains iron or steel.

35 (f) "Junk vehicle" means a vehicle not requiring a title as provided in
36 chapter 8 of the Kansas Statutes Annotated, and amendments thereto,
37 aircraft, boat, farming implement, industrial equipment, trailer or any other
38 conveyance used on the highways and roadways, which has no use or
39 resale value except as scrap.

40 (g) "Nonferrous metal" means a metal that does not contain iron or
41 steel, including but not limited to, copper, brass, aluminum, bronze, lead,
42 zinc, nickel and their alloys.

43 (h) "Tin" means a metal consisting predominantly of light sheet metal

1 ferrous scrap, including large and small household appliances, construction
2 siding and construction roofing.

3 (i) "Vehicle part" means the front clip consisting of the two front
4 fenders, hood, grill and front bumper of an automobile assembled as one
5 unit; or the rear clip consisting of those body parts behind the rear edge of
6 the back doors, including both rear quarter panels, the rear window, trunk
7 lid, trunk floor panel and rear bumper, assembled as one unit; or any other
8 vehicle part.

9 *Sec. 6. K.S.A. 2010 Supp. 50-6,110 is hereby amended to read as*
10 *follows: 50-6,110. (a) Except as provided in subsection (d), it shall be*
11 *unlawful for any person to sell any item or items of regulated scrap*
12 *metal to a scrap metal dealer, or employee or agent of a dealer, in this*
13 *state unless such person presents to such scrap metal dealer, or*
14 *employee or agent of such dealer, at or before the time of sale, the*
15 *following information: The seller's name, address, sex, date of birth and*
16 *the identifying number from the seller's driver's license, military*
17 *identification card, passport or personal identification license. The*
18 *identifying number from an official governmental document for a*
19 *country other than the United States may be used to meet this*
20 *requirement provided that a legible fingerprint is also obtained from the*
21 *seller.*

22 (b) *Every scrap metal dealer shall keep a register in which the*
23 *dealer, or employee or agent of the dealer, shall at the time of purchase*
24 *or receipt of any item for which such information is required to be*
25 *presented, cross-reference to previously received information, or*
26 *accurately and legibly record at the time of sale the following*
27 *information:*

28 (1) *The time, date and place of transaction;*

29 (2) *the seller's name, address, sex, date of birth and the identifying*
30 *number from the seller's driver's license, military identification card,*
31 *passport or personal identification license; the identifying number from*
32 *an official governmental document for a country other than the United*
33 *States may be used to meet this requirement provided that a legible*
34 *fingerprint is also obtained from the seller;*

35 (3) *a copy of the identification card or document containing such*
36 *identifying number;*

37 (4) *the license number, color and style or make of any motor*
38 *vehicle in which the junk vehicle or other regulated scrap metal property*
39 *is delivered in a purchase transaction;*

40 (5) *a general description, made in accordance with the custom of*
41 *the trade, of the predominant types of junk vehicle or other regulated*
42 *scrap metal property purchased in the transaction;*

43 (6) *the weight, quantity or volume, made in accordance with the*

1 *custom of the trade, of the regulated scrap metal property purchased;*

2 (7) *if a junk vehicle or vehicle part is being bought or sold, a*
3 *description of the junk vehicle or vehicle part, including the make,*
4 *model, color, vehicle identification number and serial number if*
5 *applicable;*

6 (8) *the amount of consideration given in a purchase transaction for*
7 *the junk vehicle or other regulated scrap metal property; and*

8 (9) *the name of the individual acting on behalf of the regulated*
9 *scrap metal dealer in making the purchase.*

10 (c) *The scrap metal dealer's register, including copies of*
11 *identification cards, may be kept in electronic format.*

12 (d) *Notwithstanding the foregoing, this section shall not apply to:*

13 (1) *Transactions involving regulated scrap metal, except for*
14 *catalytic converters, for which the total sale price for all regulated scrap*
15 *metal is \$50.00 or less;*

16 (2) *transactions involving only catalytic converters for which the*
17 *total sale price is \$30.00 or less;*

18 (3) *transactions in which the seller is also a scrap metal dealer; or*

19 (4) *transactions for which the seller is known to the purchasing*
20 *scrap metal dealer to be an established business that operates out of a*
21 *fixed business location and that can reasonably be expected to generate*
22 *regulated scrap metal.*

23 (e) *The exceptions contained in subsections (d)(1) and (d)(2) shall*
24 *not apply to any purchase from any seller of the following materials:*

25 (1) *Catalytic converters purchased separate from a vehicle;*

26 (2) *coated or insulated wire or stripped wire or burnt wire;*

27 (3) *refrigeration condensing units or air conditioning coils of any*
28 *type; or*

29 (4) *copper tubing, bars, plate, buss bar and sheet copper.*

30 (f) *It shall be unlawful for any scrap metal dealer, or employee or*
31 *agent of the dealer, to pay for any of the items described in subsections (e)*
32 *(1) through (4) by any means other than:*

33 (1) *A prenumbered check drawn on a regular bank account in the*
34 *name of the scrap metal dealer and with such check made payable to the*
35 *person documented as the seller in accordance with subsection (b); or*

36 (2) *a system for automated cash or electronic payment distribution*
37 *which photographs or videotapes the payment recipient and identifies the*
38 *payment with a distinct transaction in the register maintained in*
39 *accordance with subsection (b).*

40 Sec. ~~6~~ 7. K.S.A. 2010 Supp. 50-6,111 is hereby amended to read as
41 follows: 50-6,111. (a) It shall be unlawful for any such scrap metal dealer,
42 or employee or agent of the dealer, to purchase any item or items of
43 regulated scrap metal in a transaction for which K.S.A. 2010 Supp. 50-

1 6,110, and amendments thereto, requires information to be presented by
2 the seller, without demanding and receiving from the seller that
3 information. Every scrap metal dealer shall file and maintain a record of
4 information obtained in compliance with the requirements in K.S.A. 2010
5 Supp. 50-6,110, and amendments thereto. All records kept in accordance
6 with the provisions of this act shall be open at all times to peace or law
7 enforcement officers and shall be kept for two years. If the required
8 information is maintained in electronic format, the scrap metal dealer shall
9 provide a printout of the information to peace or law enforcement officers
10 upon request.

11 (b) It shall be unlawful for any scrap metal dealer, or employee or
12 agent of the dealer, to purchase any item or items of regulated scrap metal
13 in a transaction for which K.S.A. 2010 Supp. 50-6,110, and amendments
14 thereto, requires information to be presented by the seller, without
15 obtaining from the seller a signed statement that: (1) Each item is the
16 seller's own personal property, is free of encumbrances and is not stolen; or
17 (2) that the seller is acting for the owner and has permission to sell each
18 item.

19 (c) It shall be unlawful for any scrap metal dealer, or employee or
20 agent of the dealer, to purchase any junk vehicle in a transaction for which
21 K.S.A. 2010 Supp. 50-6,110, and amendments thereto, requires
22 information to be presented by the seller, without: (1) Inspecting the
23 vehicle offered for sale and recording the vehicle identification number;
24 and (2) obtaining an appropriate vehicle title or bill of sale issued by a
25 governmentally operated vehicle impound facility if the vehicle purchased
26 has been impounded by such facility or agency.

27 (d) It shall be unlawful for any scrap metal dealer, or employee or
28 agent of the dealer, to purchase or receive any regulated scrap metal from a
29 minor **[unless such minor is accompanied by a parent or guardian or
30 such minor is a licensed scrap metal dealer]**.

31 (e) It shall be unlawful for any scrap metal dealer, or employee or
32 agent of the dealer, to purchase any of the following items of regulated
33 scrap metal property without obtaining proof that the seller is an
34 employee, agent or person who is authorized to sell the item of regulated
35 scrap metal property on behalf of the governmental entity, utility provider,
36 railroad, cemetery, civic organization or scrap metal dealer:

- 37 (1) Utility access cover;
- 38 (2) street light poles or fixtures;
- 39 (3) road or bridge guard rails;
- 40 (4) highway or street sign;
- 41 (5) water meter cover;
- 42 (6) traffic directional or traffic control signs;
- 43 (7) traffic light signals;

- 1 (8) any metal marked with any form of the name or initials of a
2 governmental entity;
- 3 (9) property owned and marked by a telephone, cable, electric, water
4 or other utility provider **or any such wire or cable that has had the**
5 **sheathing removed, making ownership identification impossible;**
- 6 (10) property owned and marked by a railroad;
- 7 (11) funeral markers or vases;
- 8 (12) historical markers;
- 9 (13) bales of regulated metal;
- 10 (14) beer kegs;
- 11 (15) manhole covers;
- 12 (16) fire hydrants or fire hydrant caps;
- 13 (17) junk vehicles with missing or altered vehicle identification
14 numbers;
- 15 (18) real estate signs; ~~and~~
- 16 (19) bleachers or risers, in whole or in part; *and*
- 17 **(20) twisted pair copper telecommunications wiring existing in 19,**
18 **22, 24 or 26 gauge.**
- 19 (f) It shall be unlawful for any scrap metal dealer, or employee or
20 agent of the dealer, to sell, trade, melt or crush, or in any way dispose of,
21 alter or destroy any regulated scrap metal, junk vehicle or vehicle part
22 upon notice from any law enforcement agency, or any of their agents or
23 employees, that they have cause to believe an item has been stolen. A scrap
24 metal dealer shall hold any of the items that are designated by or on behalf
25 of the law enforcement agency for 30 days, exclusive of weekends and
26 holidays.
- 27 ~~(g) It shall be unlawful for any scrap metal dealer, or employee or~~
28 ~~agent of the dealer, to pay for the following purchases **all purchases of**~~
29 ~~**property from any person in excess of \$35, copper in any form for any**~~
30 ~~**amount, catalytic converters and refrigeration condensing units and**~~
31 ~~**related parts, by any means other than a:**~~
- 32 ~~(1) A prenumbered check drawn on a regular bank account in the~~
33 ~~name of the scrap metal dealer and with such check made payable to the~~
34 ~~person selling such property; **or**~~
- 35 ~~(1) All purchases of property from any person within a 24 hour~~
36 ~~period which exceeds \$50; and,~~
- 37 ~~(2) all purchases of copper in any form for any amount, catalytic~~
38 ~~converters, and refrigeration condensing units or related parts.~~
- 39 ~~(2) a similar system for automated payment distribution which~~
40 ~~videotapes and identifies all transactions and participants and is~~
41 ~~approved by the board of county commissioners or city governing~~
42 ~~board.~~
- 43 Sec. ~~7~~ 8. K.S.A. 2010 Supp. 50-6,109, **50-6,110**, 50-6,111 and

1 section 87 of chapter 136 of the 2010 Session Laws of Kansas are hereby
2 repealed.

3 Sec. ~~8~~ 9. This act shall take effect and be in force from and after its
4 publication in the statute book.

5